

22859

Customer Number

Patent Case No.: 46984.2.3

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

First Named Inventor: KRISTI PIERCE

Application No.: 10/540,467

Group Art Unit: 3751

Filed: June 23, 2005

Examiner: PHILLIPS, Charles E.

Title: CONCEALED TOILET CLEANING SYSTEM

---

Mail Stop AMENDMENT

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

**AMENDMENT**

In response to the Office Action of May 7, 2008, and in accordance with the automatic extension of time for response provided by 37 C.F.R. § 1.136(a), amendment, further examination and reconsideration of the above identified patent application is requested in view of the remarks offered below.

**Amendments to the Claims** are reflected in the listing of claims which begins on page 2 of this paper.

**Remarks/Arguments** begin on page 5 of this paper.

AMENDMENTS TO THE CLAIMS

1. (Currently amended) A toilet cleaning system comprising:  
a toilet ~~cleaning device~~ plunger comprising a handle and a plunger cup; and  
a holder for releasably attaching the toilet plunger within a toilet flush tank of a toilet  
such that the toilet plunger is positioned above a water reservoir and apparatus necessary to  
operate the toilet and the toilet plunger and holder do not contact the apparatus necessary to  
operate the toilet, attaching the toilet cleaning device to the interior of a toilet flush tank.
2. (Canceled)
3. (Currently amended) The system of claim 1 wherein said toilet ~~cleaning device~~ plunger is  
releasably attached to an interior surface of a ~~the interior of the~~ cover portion of the toilet flush  
tank.
4. (Canceled)
5. (Currently amended) The system of ~~claim 4~~ claim 1 wherein the toilet plunger further  
comprises an elongated handle and a plunger cup attached to the elongated handle a hinge that  
pivots where the plunger cup intersects the elongated handle.
6. (Currently amended) The system of ~~claim 2~~ claim 1 wherein the toilet plunger further  
comprises a collapsible handle portion.
7. (Currently amended) The system of claim 1 wherein the holder ~~comprises a pair of~~  
~~opposed surfaces of resilient material which exert tensive force against an inserted toilet cleaning~~  
~~device, thereby retaining the toilet cleaning device in place grips the handle of the plunger using~~  
friction and tension.
8. (Canceled)

9. (Currently Amended) The ~~apparatus of claim 8~~ system of claim 1 wherein the ~~holding~~ device holder is a broom clip.

10. (Canceled)

11. (Canceled)

12. (Canceled)

13. (Currently amended) A method of storing and using a concealed toilet plunger comprising the steps of:

\_\_\_\_\_ a) removing a toilet flush tank cover from a toilet flush tank;

\_\_\_\_\_ b) removing a toilet plunger comprising a handle and a plunger cup from a holder on the toilet flush tank cover;

\_\_\_\_\_ c) utilizing the toilet plunger within the toilet;

\_\_\_\_\_ d) replacing the toilet plunger in the holder on the toilet flush tank cover;

\_\_\_\_\_ e) replacing the toilet flush tank cover upon the toilet flush tank;

The method of claim 12 including the further steps of

\_\_\_\_\_ (f) unfolding the toilet plunger after removing the toilet plunger from ~~[[a]]~~ the holder so that the toilet-plunger cup is perpendicular relative to the ~~toilet-plunger~~ handle~~[,.]~~; and

\_\_\_\_\_ (g) refolding the toilet plunger after utilizing the toilet plunger within the toilet so that the toilet plunger cup is parallel relative to the ~~toilet-plunger~~ handle.

14. (New) The system of claim 5, wherein the plunger includes a locking mechanism to prevent the plunger cup from wobbling while being used.

15. (New) The system of claim 1, wherein when the toilet plunger is attached to the holder the plunger cup is positioned over a float device of the toilet.

16. (New) The system of claim 1, wherein the toilet plunger is dimensioned to fit within the toilet flush tank.

17. (New) A toilet cleaning system comprising:

a toilet plunger comprising a plunger cup fixedly and pivotally connected with a handle, such that the plunger cup can be folded against the handle; and

a holder attached to a toilet tank cover of a toilet for releasably attaching the toilet plunger to the toilet tank cover,

wherein when the toilet plunger is folded and attached to the toilet tank cover and the cover is installed about a toilet tank of the toilet, the toilet plunger is concealed from view and avoids obstacles contained within the toilet tank.

18. (New) The toilet cleaning system of claim 17, wherein the toilet plunger further comprises a locking mechanism to prevent the plunger cup from wobbling while being used.

19. (New) The toilet cleaning system of claim 17, wherein the toilet plunger further comprises a collapsible handle portion.

**REMARKS**

This reply is in response to the Office Action of May 7, 2008. Claims 1 – 13 remain pending in the present application. Claims 1, 3, 5 – 7, 9, and 13 have been amended, claims 2, 4, 8, 10 – 12 have been canceled and new claims 14 – 19 have been added to the application. No new matter has been added by these amendments. Applicant respectfully requests reconsideration by the Examiner of the pending claims in light of the following remarks.

**Claim Rejections based on Non-Statutory Double Patenting**

In the Office Action, the Examiner rejected claim 13 on the ground of non-statutory obviousness type double patenting as being unpatentable over claim 3 of U.S. Patent No. 6,883,189 (the '189 Patent). The Applicant respectfully traverses this rejection. However, in an effort to expedite allowance of the present application, Applicant hereby submits with this response a terminal disclaimer.

**Claim Rejections based on 35 U.S.C. § 112**

Claims 3 – 5 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Applicant respectfully submits that the above amendments overcome these rejections. Specifically, the above submitted amendments address the antecedent basis concerns of the Examiner with regard to claims 3 and 5. Claim 4 has been canceled by this amendment.

**Claim Rejections based on 35 U.S.C. § 102 and § 103**

In the Office Action, the Examiner rejected claims 1 and 7 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,701,702 to Diederich (“Diederich”). By the above submitted amendments, claims 1 and 7 have been amended to require a toilet plunger. Because

Diederich does not disclose a toilet plunger, Diederich cannot be found to anticipate claims 1 and 7.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Diederich as applied in view of U.S. Patent No. 5,640,722 to Bui (“Bui”). By the above submitted amendment, claim 2 has been canceled but the Examiner’s argument will be addressed with respect to currently amended claim 1 and new claim 17, which now each call out for a toilet cleaning system comprising a toilet plunger.

With respect to claim 1, Applicant respectfully submits that the combination of Diederich and Bui do not disclose all elements of the claim. Bui teaches the storage of a plunger within a toilet tank. In Bui, the plunger is suspended within the toilet tank from the toilet tank cover. Bui does not disclose that the plunger is suspended “above [the] water reservoir” as required by claim 1. Rather, it is apparent at least from the drawings of Bui (e.g. Figure 1) that a plunger stored as in Bui would reach well within the water reservoir. In Diederich, a toilet cleaning brush holder is used to hold a toilet cleaning brush within a toilet tank. Diederich does not teach a plunger holder that positions the plunger such that it “do[es] not contact the apparatus necessary to operate the toilet” as required by claim 1. Rather, Diederich *requires* that the holder contact apparatus necessary to operate the toilet (overflow pipe 14). Thus, because neither Diederich, Bui, or a combination of the two references teach a holder configured to position a plunger both “above a water reservoir and apparatus necessary to operate the toilet” *and* “not contact[ing] the apparatus necessary to operate the toilet” claim 1 is not rendered obvious. As such, Applicant’s respectfully submit that the rejection of claim 2 does not apply to currently amended claim 1.

Claim 17 calls out for a “toilet plunger comprising a plunger cup fixedly and pivotally connected with a handle.” Neither Diederich nor Bui disclose such a toilet plunger. Because not all element of the claim have been presented, a *prima facie* case of obviousness has not been disclosed, and therefore Applicant respectfully requests allowance of claim 17.

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being obvious in view of Diederich, Bui and U.S. Patent No. 6,055,680 to Tolbert (“Tolbert”). Applicant submits that claim 6 is not obvious in view of Diederich, Bui, and Tolbert because: (1) claim 6 depends from claim 1, which for at least the above-described reasons is not obvious in view of Diederich and Bui, and (2) Tolbert does not cure the above-described deficiencies of Diederich and Bui with respect to claim 1. Namely, Tolbert does not disclose a holder for positioning a plunger both (1) above the water reservoir and apparatus necessary to operate the toilet and (2) not in contact with the apparatus necessary to operate the toilet as required by claim 1. Because claim 1 remains unobvious in view of the cited references, and without conceding that Tolbert discloses the limitations of claim 6, claim 6 cannot be obvious in view of Diederich, Bui, and Tolbert.

In addition, Examiner rejected Claims 8 – 10, and 12 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,918,769 to Gandini (“Gandini”) in view of Bui. By the above amendments, claims 8, 10, and 12 have been canceled. Claim 9 depends from claim 1. Applicant submits that because Gandini does not cure the above described deficiency of Bui, claim 9 is allowable in view of a combination of these references. Specifically, Gandini discloses a dual chamber flush tank, one chamber including a water reservoir and apparatus for the operation of the toilet and the second chamber for housing washing means or a brush. The second chamber of Gandini is disposed along side the first chamber, and thus it is incapable of positioning a plunger “above [the] water reservoir and apparatus necessary to operate the toilet”

as required by claim 1. Because claim 1 is not obvious in view of Gandini and Bui, its dependent claim (claim 9), likewise is not obvious in view of those references.

**Allowable Subject Matter**

In the Office Action, Examiner indicated that claim 13 “would be allowable if rewritten in independent form including all of the limitations of the base claim.” In the above amendments, Applicant has complied with Examiner’s suggestion and has further submitted a Terminal Disclaimer in response to the double patenting rejection of the same claim. By such action, Applicant respectfully submits that claim 13 meets all statutory requirements and should be allowed.

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

/John F. Dolan/

John F. Dolan  
Registration No. 45,382

Customer No. 22859  
FREDRIKSON & BYRON, P.A.  
200 South Sixth Street, Suite 4000  
Minneapolis, MN 55402-1425 USA  
Telephone: (612) 492-7000  
Facsimile: (612) 492-7077

*Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 06-1910.*